**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION.**

COMPANY PETITION No.787/2006.
CONNECTED WITH
COMPANY APPLICATION No.1147/2006.

Spirax Marshall Pvt.Ltd. ..Petitioner.

Mr Hemant Sethi i/b. Hemant Sethi & Co.for the Petitioner.

Mr Parag Vyas with Ms Madhuri Gaikwad i/b Pankaj Kapoor for the Regional Director.

**CORAM: V.C. DAGA,J.**

**DATED: 9TH FEBRUARY,2007.**

**P.C.:-**

1. The present petition is filed under Sections 391 to 394 of the Companies Act, 1956 to sanction a Scheme of Amalgamation between " Spirax Marshall Private Limited" (hereinafter referred to as "the petitioner Company") and the "Equity Shareholders of the Petitioner Company" for the purchase of equity shares of petitioner company.

2. The Regional Director has filed an affidavit dated 18th January, 2007 and referring to the report of the Registrar of Companies stated that the Scheme is not

prejudicial to the interest of the shareholders and Creditors. However, the R.D. has invited attention of this Court to the provisions of Section 77A (1) of the Companies Act, 1956 wherein there is a separate provision for buy back of shares and the petitioner instead followed way through Sections 391 to 394 of the Companies Act, 1956. However, this objection has already been answered by the Division Bench of this Court in the case of **Securities and Exchange Board of India Vs. Sterlite Industries (India) Ltd. (2003 53 CLA 41.** The learned counsel for the Regional Director contends that this decision is pending in the Appeal before the Supreme Court, however, there appears no stay to the effect and operation of the said Judgment or order of the Division Bench.

3. Apart from the above petition there is no other objection raised by the Regional Director.

4. Pursuant to the advertisement of the petition in "Free Press Journal" and "Navshakti" no shareholder or any other person has comeforward to take objection to the

Scheme of Amalgamation.

5. After perusing the affidavit of Regional Director,I am satisfied that the Scheme is not prejudicial to the interest of Creditors, shareholders and public and a case is made out for sanctioning the scheme.

6. In the result, the Company Petition is made absolute in terms of prayer clause (a) to (d), subject to payment of cost to Regional Director quantified at Rs. 2,500/-.

7. All concerned including Registrar of Companies to act on an ordinary copy of this order and Scheme annexed to the petition,duly authenticated by the Company Registrar.
Filing of drawn up order is dispensed with.

**[V.C.DAGA,J]**